

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

SHANTELE REAMS,

Plaintiff,

v.

**RAFAEL, BUCAREY, WERNER
ENTERPRISES, INC., & ACE
AMERICAN INSURANCE
COMPANY,**

Defendants.

CIVIL ACTION FILE NO.

**REMOVED FROM SUPERIOR
COURT OF LOWNDES COUNTY
CIVIL ACTION FILE NO.
2022CV0149**

DEFENDANTS' NOTICE OF REMOVAL

TO: The Honorable Judges of the United States District Court for the Middle District of Georgia, Valdosta Division:

COME NOW, Rafael Bucarey, Werner Enterprises, Inc., & ACE American Insurance Company (hereinafter “Defendants”), and file the following Notice of Removal to United States District Court, showing the Court as follows:

1. A civil action was filed on February 3, 2022, in the Superior Court of Lowndes County, State of Georgia. That action is designated there as Civil Action File No.: 2022CV0149. Defendants first received notice of the suit on the day it was served,

February 10, 2022. This removal is timely filed. Plaintiff has previously submitted a demand to Defendants in the amount of \$150,000.00.

2. Defendants file herewith a copy of all process, pleadings, and orders received by Defendants in Civil Action File No.: 2022CV0149, pursuant to 28 USC §1446.

3. Defendant Rafael Bucarey is an individual and citizen residing with the intent to remain in the State of Florida.

4. Defendant Werner, is now, was at the commencement of Civil Action File No.: 2022CV0149, and at all times since has been an entity organized and existing under the laws of the State of Nebraska.

5. Defendant Werner's Principal Office at the time of filing of Civil Action File No.: 2022CV0149, was, and at all times since has been located in Omaha, NE.

6. Defendant Ace American Ins. Co.'s was at the commencement of Civil Action File No. 2022CV0149, and at all times since has been an entity organized and existing under the laws of the Commonwealth of Pennsylvania.

7. Defendant Ace American Ins. Co.'s Principal Office was at the commencement of Civil Action File No. 2022CV0149, and at all times since has been located in the Commonwealth of Pennsylvania.

8. Upon information and belief, Plaintiff is an individual residing in the State of Georgia.

9. The action described above is a civil action with a claim of which this Court has original jurisdiction, and it is one that may be removed to this Court by the Defendant pursuant to the provisions of 28 USC §§ 1332 and 1441 et seq., in that there is complete diversity among the Parties, the Parties are not residents of the same State, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

- a. Plaintiff has previously submitted a demand to Defendants in the amount of \$150,000.00
- b. "Amount in controversy" means simply the amount sought by Plaintiff that can be legally awarded by the fact-finder. "The jurisdictional fact in this case is not whether the damages are greater than the requisite amount, but whether a fact finder might legally conclude that they are: In other words, an amount that a plaintiff claims is not 'in controversy' if no fact finder could legally award it." *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir., 2002). "[T]he plaintiffs' likelihood of success on the merits is largely irrelevant to the court's jurisdiction because the pertinent question is what is in controversy in the case, not how much the plaintiffs are ultimately likely to recover." *Pretka v. Kolter City*

Plaza II, Inc., 608 F.3d 744, 751 (11th Cir., 2010). In a tort case the amount in controversy includes "general, special, and punitive damages." *Williams v. Best Buy Co.*, 269 F.3d 1316, 1320 (11th Cir., 2001).

10. Defendant attaches hereto a copy of the Summons and Complaint in Superior Court of Lowndes County, State of Georgia, marked as Exhibit "A".

11. Defendant attaches hereto a copy of Defendants' Notice of Removal which has been sent for filing in the Superior Court of Lowndes County, State of Georgia, marked as Exhibit "B".

12. All Defendants agree to this removal.

WHEREFORE the Defendant prays that the above action now pending against them in the Superior Court of Lowndes County, State of Georgia, be removed to this Court.

Respectfully submitted this 11th day of March, 2022.

HALL BOOTH SMITH, PC

/s/ Sean B. Cox

SEAN B. COX

Georgia State Bar No. 664108

MARK D. CHRISTOPHER

Georgia State Bar No. 821387

Counsel for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **DEFENDANTS' NOTICE OF REMOVAL** upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, addressed to counsel of record as follows and/or filing said document with the CM/ECF system which will automatically send electronic notification to the following:

Carl G. Fulp, III
Carl G Fulp III PC
2935 N. Ashley Street, Suite 107
P.O. Box 3123
Valdosta, GA 31604-3123
carl@fulplaw.com

Respectfully submitted this 11th day of March, 2022.

HALL BOOTH SMITH, PC

/s/ Sean B. Cox

SEAN B. COX

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